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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

BMW OF NORTH AMERICA, LLC, et
al.

Plaintiffs,

v.

NEWEGG, INC., et al.,

Defendants.

Case No: 2:17-cv-05011 DSF (SKx)

**PERMANENT INJUNCTION
AGAINST DEFENDANT
NUTREND AUTOMOTIVE, INC.
AND DISMISSAL OF ENTIRE
ACTION**

Honorable Dale S. Fischer

Pursuant to (i) the Stipulation for Entry of Permanent Injunction and Dismissal of Entire Action by and between Plaintiffs BMW of North America, LLC and Bayerische Motoren Werke AG (collectively “Plaintiffs”), and Defendant Nutrend Automotive, Inc. (“Defendant”) and (ii) the Confidential Settlement Agreement between Plaintiffs and Defendant, and without acknowledgment or admission of liability or infringement by Defendant, the Court hereby ORDERS, ADJUDICATES and DECREES that a permanent injunction shall be and hereby is entered against Defendant as follows:

1 1. **PERMANENT INJUNCTION.** Defendant is hereby restrained and
 2 enjoined, pursuant to 15 United States Code (“U.S.C.”) §1116(a), from engaging
 3 in, directly or indirectly, or authorizing or assisting any third party to engage in,
 4 any of the following activities in the United States and throughout the world:

5 i. copying, manufacturing, designing, importing, exporting,
 6 purchasing, marketing, advertising for sale, offering for sale, selling, distributing
 7 or otherwise dealing in any product or service that uses, or otherwise makes any
 8 other illegal use of, any of BMW’s trademarks, including but not limited to the
 9 **BMW®** (U.S.P.T.O. Reg. Nos. 0,611,710; 0,613,465; 1,450,212; 2,816,178;
 10 4,293,991), **M®** (U.S.P.T.O. Reg. Nos. 1,438,545; 3,526,899; 3,767,662;
 11 3,767,663), **MINI®** (2,746,570; 2,812,820; 3,462,517; 3,507,903; 3,515,455),
 12 **MINI COOPER®** (U.S.P.T.O. Reg. Nos. 2,376,477; 3,969,191), **JOHN**
 13 **COOPER WORKS®** (U.S.P.T.O. Reg. Nos. 3,195,399; 3,850,160; 3,892,600)
 14 and/or **S®** (U.S.P.T.O. Reg. No. 3,004,619) trademarks (collectively “BMW
 15 Trademarks”);

16 ii. advertising or displaying images and/or photographs of non-
 17 genuine BMW products using BMW Trademarks;

18 iii. using BMW Trademarks, including but not limited to the
 19 **BMW®, M®, MINI®, MINI COOPER®, JOHN COOPER WORKS®** and/or **S®**
 20 trademarks in advertising to suggest that non-genuine BMW products being
 21 advertised are sponsored by, endorsed by, or are otherwise affiliated with BMW
 22 and/or advertising non-genuine BMW automotive parts using descriptions that
 23 imply that the products are genuine BMW products. Defendant may, however,
 24 use “BMW,” “MINI,” or other BMW wordmarks to advertise non-BMW products
 25 for sale with fair use descriptions such as ‘for BMW automobiles’ or ‘fits MINI
 26 model _____,’ or similar language.

27 2. This Permanent Injunction against Defendant does not apply to
 28 genuine BMW products bearing BMW Trademarks that are manufactured or

1
2 authorized under license by BMW.

3 3. Defendant is ordered to deliver to Plaintiffs immediately for
4 destruction all alleged infringing products bearing BMW Trademarks to the extent
5 that any of these items are in Defendant's possession, custody or control.

6 4. This Permanent Injunction shall be deemed to have been served upon
7 Defendant at the time of its execution by the Court.

8 5. The Court finds there is no just reason for delay in entering this
9 Permanent Injunction against Defendant, and, pursuant to Federal Rule of Civil
10 Procedure 54(a), the Court directs immediate entry of this Permanent Injunction
11 against Defendant.

12 6. **NO APPEALS AND CONTINUING JURISDICTION.** No
13 appeals shall be taken from this Permanent Injunction against Defendant, and
14 BMW and Defendant waive all rights to appeal. This Court expressly retains
15 jurisdiction over this matter to enforce any violation of the terms of this
16 Permanent Injunction by Defendant.

17 7. **NO FEES AND COSTS.** Each party shall bear their own attorneys'
18 fees and costs incurred in this matter.

19 8. **DISMISSAL OF ENTIRE ACTION.** Upon entry of this Permanent
20 Injunction against Defendant, this case shall be dismissed in its entirety with the
21 Court retaining jurisdiction for purposes of enforcing the Permanent Injunction to
22 be entered.

23 IT IS SO ORDERED, ADJUDICATED and DECREED this 31st day of
24 August, 2018.

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26 HON. DALE S. FISCHER
27 District Court Judge of the United States
28 Central District of California